IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6388 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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RAJENDRA M PRAJAPATI

Versus

MANAGING DIRECTOR

Appearance:

1. Special Civil Application No. 6388 of 1998

MR MA PAREKH for Petitioner No. 1

MR DEEPAK V PATEL for Respondent No. 1-2,4

RULE SERVED for Respondent No. 3

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 03/07/2002

ORAL JUDGEMENT

#. The petitioner is serving on ad-hoc basis as Gas Mechanic with the respondent Corporation. By filing this petition, it is prayed that the respondents may be

directed to regularise adhoc services of the petitioner and he may be given permanent appointment order. It is also prayed that the petitioner may be absorbed on regular pay-scale of the post of Gas Mechanic (Class-III). The petitioner has produced on record his first appointment order which is issued to him in May, 1982 by which he was appointed as Gas Mechanic on the fixed pay of Rs.400/- per month. Thereafter, his services were extended on adhoc basis from time to time. Certain orders are also produced by the petitioner on the record of the case. Under these circumstances, it is prayed that the petitioner may be given appointment in the regular pay-scale and regular appointment order may be issued to him.

#. On behalf of the respondent, affidavit in reply is filed which is at page 26 and in para 5 of the said reply, it is stated that the petitioner was originally appointed on 10.5.1982 as Gas Mechanic on adhoc basis at Nadiad on the fixed pay of Rs.400/-. It is also stated that, he was not appointed after following due selection process. It is also stated that, services of the petitioner are not very satisfactory and that he was issued certain warning letters also.

#. At the time of hearing, learned counsel for the petitioner has relied upon the order passed by this Court in Special Civil Application No.3433 of 1992 wherein this Court has given certain directions for regularising the services of the petitioner of that petition. Relying upon the said order, it is prayed that, similar directions are required to be issued in this petition.

#. Mr.Patel, on the other hand, submitted that, it is no doubt true that, judgment rendered by this Court in Special Civil Application 3433 of 1992 is in connection with this very department. However, according to him, the petitioner of that petition was serving as Sales Man, while the petitioner is serving as Gas Mechanic.

#. I have heard both the learned advocates and I have also gone through the order of this Court passed in Special Civil Application No.3433 of 1992 as well as modified order of this Court in the aforesaid matter which is dated 3.5.2001.

#. It is not in dispute that the present petitioner is serving on adhoc basis since more than a decade and unfortunately, since long he is continued on the fixed pay. The petitioner has approached the authority from time to time to absorb him as regular employee and to

give him regular pay-scale. In my view, since the petitioner is serving since considerable time, it would not be just and proper to continue his services on adhoc basis for such a long time and that too on the fixed pay. Considering the facts and circumstances of the case as well as considering the observations of this Court against the very respondent in Special Civil Application No.3433 of 1992, respondent No.1 is directed to consider the case of the petitioner for absorption/regularisation on the post in question and appropriate decision in this connection may be taken as early as possible preferably within a period of one month from the date of receipt of the writ of this Court.

#. Learned advocate for the petitioner has fairly submitted that the petitioner will have no objection if he is accommodated at any place where the vacancy is available and for that purpose, even if he is transferred, he will not object the same. Under the circumstances, the department may also consider, whether the petitioner can be accommodated on the regular basis at any place whereever there is vacancy on which he can be absorbed. It is clarified that, in case, the petitioner is given regular appointment, he will be entitled to the benefit of regular pay scale only from the date of passing of such order and his past services may not be counted for the payment of increments, leave as well as seniority. In case such order is passed by which regular appointment is given to the petitioner, such order will have no retrospective effect.

#. Considering the facts and circumstances of the case, the respondent Corporation is directed to take appropriate decision in accordance with law in this behalf and the Corporation may decide whether any regular appointment can be given to the petitioner by giving him appointment in the regular pay scale. While taking such decision, observations made by this Court in Special Civil Application NO.3433 of 1992 may also be taken into consideration.

#. In view of what is stated above, this petition is partly allowed. Rule is made absolute to the aforesaid extent with no order as to costs. Direct service is permitted.

(P.B.Majmudar,J)

(pathan)